IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Sharvan Kumar & Anr. Vs. State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 1507/2007

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Date of Order : 05/10/2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Sandeep Mehta, for the petitioners.
Mr. Ashok Upadhyay, public prosecutor for the State.

BY THE COURT:

This criminal misc. petition under Section 482 Cr.P.C. is directed against the order dated 29.5.2007 passed by Judicial Magistrate First Class, Jaitaran (Pali) (for short 'the trial court' hereinafter) whereby the trial court dismissed the application filed by the petitioner under Section 190 and 177 Cr.P.C.

I have heard learned counsel for the petitioners and public prosecutor for the State. Carefully gone through the order impugned.

It is contended by learned counsel for the petitioners

that the Court at Jaitaran, district Pali has no jurisdiction to try the case as the complainant was alleged to have been subjected to cruelty and assaulted in connection with demand of dowry at Bangalore and therefore, no part of cause of action arose within the territorial jurisdiction of Jaitaran, district Pali.

Learned public prosecutor supported the order impugned.

It appears from the order impugned that complainant Smt. Indira Devi filed a report alleging therein that she married to petitioner No.1 Shravan Kumar son of present petitioner No.2 on 26.5.2002 at village Devlikala, Tehsil Raipur, district Pali. It has been alleged in the report that at the time of her marriage at village Devlikala, her parents gave dowry articles. It has also been alleged that the dowry articles were handed over to her husband and in-laws who are petitioners herein at Devlikala, Tehsil Raipur, district Pali. It has been further alleged that she was tortured and harassed in connection with demand of dowry and her life was made miserable and therefore, her parents on an application got a search warrant issued and in compliance of the search warrant she was taken out of the clutches of the petitioners by the police and brought to her parental house at Devlikala, tehsil Raipur, district Pali and has been residing there.

The contention raised by the counsel for the petitioner challenging the jurisdiction of the Court at Jaitaran, in

my view, is devoid of any force. It has not been disputed that the marriage was solemnized at village Devlikala, tehsil Raipur, district Pali and the dowry articles were entrusted at village Devlikala on the date of marriage i.e. on 26.5.2002 and the same have not been returned even after demand which is Stridhan of the complainant and thus, prima-facie there is evidence available on record and even averment in the complaint that the offence of criminal breach of trust prima-facie appears to have been committed.

Section 178 Cr.P.C. deals with the place of inquiry or trial which reads as under :-

178. Place of inquiry or trial.- (a) When it is uncertain in which of several local areas an offence was committed, or

(b) where an offence is committed partly in one local area and partly in another, or

(c) where an offence is a continuing one, and continues to be committed in more local areas than one, or

(d) where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

Section 181 Cr.P.C. further deals with place of trial in case of certain offences. Sub-section (4) of Section 181 Cr.P.C. provides that any offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court

within whose local jurisdiction the offence was committed or any part of the property which is the subject of the offence was received or retained, or was required to be returned or accounted for, by the accused person.

Undisputedly, the marriage was solemnized at village Devlikala, tehsil Raipur, district Pali. The dowry articles were also entrusted to the in-laws and their son petitioners herein and have not been returned and accounted for by the petitioners. To determine the jurisdiction with regard to criminal breach of trust, from the plain reading of sub-section (4) of Section 181 Cr.P.C., it is clear that such matters can be inquired into or tried by the Court within whose local jurisdiction any part of property which is subject of the offence was received or retrained or was required to be returned or accounted for, by the accused persons. In the instant case, undisputedly, the dowry articles which is Stridhan of the complainant were received by the petitioners at village Devlikala, tehsil Raipur, district Pali. Section 178 Cr.P.C. provides that where an offence is committed partly in one local area and partly in another and where the offence is a continuing one, and continues to be committed in more local areas than one and where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas. In the instant case, so far as subjecting the complainant to cruelty, causing harassing and assaulting her

are concerned, alleged to have taken place at Bangalore, but so far as entrustment of dowry articles which are "Stridhan" of the complainant is concerned, received by the petitioner at Devlikala, district Pali and therefore, offence punishable under Section 406 IPC is concerned, the cause of action arose at village Devlikala, tehsil Raipur, district Pali and therefore, in view of the provisions of Section 178 Cr.P.C., the Court at Jaitaran has territorial jurisdiction to inquire into and try the case.

In this view of the matter, I do not find any error, illegality or perversity in the order impugned warranting interference in the inherent jurisdiction under Section 482 Cr.P.C. The criminal misc. petition is therefore, dismissed.

(H.R.PANWAR), J.

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S.B.Cr. Misc. Stay Petition No. 955/2007

In

S.B.Cr. Misc. Petition No. 1507/2007

Date of Order : 05/10/2007

HON'BLE MR. JUSTICE H.R.PANWAR.

Mr. Sandeep Mehta for the petitioners.

Since the criminal misc. petition itself has been dismissed, the stay petition also stands dismissed.

(H.R.PANWAR),J.

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